

THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF ENVIRONMENTAL SERVICES  
WATER COUNCIL

Appeal of Upper IPC Dam

Docket No.: 04-05 WC

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FEB 11 2005

**JOINT MOTION TO CONTINUE SECOND PRE-HEARING CONFERENCE**

NOW COME the parties to this matter, by and through their respective counsel and submit this Joint Motion to Continue Second Pre-hearing Conference and in support thereof state as follows:

1. This appeal involves an Administrative Order ("AO") issued by the Department of Environmental Services (DES) to Freudenberg NOK ("the Appellant"), concerning the condition of the Upper IPC dam in Bristol, New Hampshire.
2. The Appellant appealed the AO asserting, among other arguments, that it is not the owner of the dam in question. The appeal is currently pending before the Water Counsel.
3. Via Notice dated January 4, 2005, a Second Pre-hearing Conference was scheduled for Monday, February 14, 2005.
4. A central issue in this matter is the ownership of the dam in question. Counsel for the Appellant has been in communication with representatives of Public Service Company of New Hampshire ("PSNH"). PSNH, while not a party to this matter, may have information and/or evidence helpful in the determination of the dam's ownership.

5. While PSNH is in the process of reviewing files concerning the dam in question, as of the date of this Motion, they are not expected to be in a position to clarify matters of ownership on or before the hearing date of February 14, 2005.
6. As such, in the interest of time, efficiency and justice, the parties request a thirty (30) day continuation of said hearing, so that information from PSNH may be obtained and evaluated.
7. In the interest of scheduling efficiency, counsel for the Department of Environmental Services, Anthony I. Blenkinsop, notes that he will be out of the office from March 15 – 18, 2005.
8. Undersigned counsel, Anthony I. Blenkinsop, represents that counsel for the Appellant, Nicholas J. Lazos, joins in this motion on behalf of his client, although, due to time constraints his signature has not been obtained.

WHEREFORE, the parties respectfully request that:

- A. The Second Pre-hearing Conference scheduled for February 14, 2005 be continued thirty (30) days; and,
- B. For all other relief as is just and equitable.

Respectfully submitted,

State of New Hampshire  
Department of Environmental  
Services,

By its attorneys,  
Kelly A. Ayotte,  
Attorney General,

Dated: February \_\_, 2005

**COPY**

Anthony I. Blenkinsop  
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Environmental Protection Bureau  
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Concord, NH 03301  
(603) 271-3679

**Certificate of Service**

I certify that a copy of the foregoing was forwarded on the above date, first class mail, postage prepaid to Nicholas J. Lazos, Esq.

**COPY**

Anthony I. Blenkinsop